

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

RICHARD MARKS,

Plaintiff

Case No. 2:19-cv-01364-RFB-NJK

ORDER

JERRY HOWELL, *et al.*,

Defendants

I. DISCUSSION

On August 7, 2019, Plaintiff, who is a prisoner in the custody of the Nevada Department of Corrections, submitted a civil rights complaint pursuant to 42 U.S.C. § 1983 and an incomplete application to proceed *in forma pauperis*. Docket Nos. 1, 1-1. On August 12, 2019, this Court ordered Plaintiff to file a fully complete application to proceed *in forma pauperis* or pay the full \$400 filing fee for a civil action no later than September 11, 2019. Docket No. 3. On September 6, 2019, Plaintiff filed a motion for an extension of time to file a fully complete application to proceed *in forma pauperis* because he had still not received his financial certificate from the NDOC. Docket No. 4. This Court granted Plaintiff until October 25, 2019, to file a fully complete application to proceed *in forma pauperis*. Docket No. 5. On October 7, 2019, Plaintiff filed a second motion for extension of time to file a fully complete application to proceed *in forma pauperis* because he was still waiting to receive his financial certificate from the NDOC. Docket No. 6. On October 8, 2019, this Court granted Plaintiff until November 22, 2019, to file a fully complete application to proceed *in forma pauperis*. On November 25, 2019, Plaintiff filed a third motion for an extension of time to file a fully complete application to proceed *in forma pauperis*. Docket No. 8.

The Court now grants Plaintiff's third motion for an extension of time. Plaintiff shall file a fully complete application to proceed *in forma pauperis* which includes both an inmate account statement for the past six months and a properly executed financial certificate or pay the full \$400

1 filing fee on or before **Monday, January 6, 2020.**

2 If, however, Plaintiff continues to have difficulty obtaining a financial certificate and an
3 inmate account statement from prison officials, Plaintiff shall file an affidavit in this case detailing
4 when he requested the documents, who he spoke to about the status of the documents, who he
5 followed up with after he did not receive the documents, and their responses. In other words, if
6 Plaintiff is unable to acquire the necessary documents from prison officials, he must provide the
7 Court with an affidavit that demonstrates that he has done all that he could to acquire the
8 documents by the Court's deadline. Plaintiff's affidavit must include dates of his requests, dates
9 of his follow-up requests, names of the prison officials that he spoke to about the matter, and their
10 responses. If Plaintiff's affidavit demonstrates that he has done all that was possible to acquire the
11 documents, the Court will consider his application to proceed *in forma pauperis* complete.¹

12 **II. CONCLUSION**

13 For the foregoing reasons, IT IS ORDERED that Plaintiff's third motion for an extension
14 of time to file a fully complete application to proceed *in forma pauperis* (ECF No. 8) is granted.

15 IT IS FURTHER ORDERED that the Clerk of the Court SHALL SEND Plaintiff the
16 approved form application to proceed *in forma pauperis* by a prisoner, as well as the document
17 entitled information and instructions for filing an *in forma pauperis* application.

18 IT IS FURTHER ORDERED that on or before **Monday, January 6, 2020**, Plaintiff shall
19 either: (1) file a fully complete application to proceed *in forma pauperis*, on the correct form with
20 complete financial attachments in compliance with 28 U.S.C. § 1915(a); or (2) file the first three
21 pages of the application to proceed *in forma pauperis* and submit an affidavit detailing the efforts
22 he took to acquire a financial certificate and an inmate account statement from prison officials. If
23 Plaintiff chooses to file an affidavit, his affidavit must describe the actions he took to acquire the
24 documents through Monday, December 30, 2019. Plaintiff shall not file an affidavit before that

26 ¹ Plaintiff must still submit the first three pages of the application to proceed *in forma*
27 *pauperis* on this Court's approved form with his affidavit. If Plaintiff does not submit the first
28 three pages of the application to proceed *in forma pauperis* with the affidavit, the Court will
dismiss the case without prejudice for Plaintiff to open a new case when he is able to acquire the
required documents.

1 date. Additionally, Plaintiff must submit the first three pages of the application to proceed *in forma*
2 *pauperis* to this Court even if he is unable to acquire the necessary attachments from prison
3 officials.

4 IT IS FURTHER ORDERED that, if Plaintiff does not timely comply with this order, the
5 Court will dismiss this case without prejudice.

6 DATED: December 5, 2019.
7

8 
9 NANCY J. KOPPE
10 UNITED STATES MAGISTRATE JUDGE
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28